LANDLORD AND TENANT — ABANDONMENT OF LEASE — DUTY OF LANDLORD TO ACCEPT NEW TENANT TO MINIMIZE DAMAGES. — A lease stipulated against an assignment or a sublease without the lessor's consent, and allowed him the option of re-entering and reletting the premises in case they were vacated. The lessee vacated during the term, and thereafter offered a new tenant, whom the lessor refused to accept. The lessee claimed that the lessor was bound to accept a proper tenant to minimize damages. *Held*, that the lessor recover the full amount of the rent. *Muller* v. *Beck*, 110 Atl. 831 (N. J.).

It is a familiar rule in contracts that a plaintiff cannot recover for such damages as he might reasonably have prevented. *Miller* v. *Mariner's Church*, 7 Me. 51; *Roberts* v. *Lehl*, 27 Colo. App. 351, 149 Pac. 851; *Moses* v. *Autuono*, 56 Fla. 499, 47 So. 925. But it is also established that a landlord upon the tenant's abandonment is under no duty to relet to minimize the amount of his recovery. *Bowen* v. *Clarke*, 22 Ore. 566, 30 Pac. 430; *Becar* v. *Flues*, 64 N. Y. 518; *Patterson* v. *Emerick*, 21 Ind. App. 614, 52 N. E. 1012. But see *contra*, *West Side Auction House Co.* v. *Conn. Mutual Life Ins. Co.*, 186 Ill. 156, 57 N. E. 839; *Sears* v. *Curtis*, 189 Ill. App. 420. Though it is true that the landlord's recovery is for rent rather than for damages, the two principles are hardly reconcilable. After the breach of a personal service contract, the plaintiff must make reasonable effort to find new employment. *King & Graham* v. *Steiren*, 44 Pa. St. 99; *Howard* v. *Daly*, 61 N. Y. 362. So it would seem just to impose on the landlord a similar duty to relet. Nor would the duty be inconsistent with the continuance of the lease, for the landlord in most jurisdictions may rerent for the tenant's benefit without thereby effecting a surrender. *Auer* v. *Penn*, 99 Pa. St. 370; *Oldewurtel* v. *Wiesenfeld*, 97 Md. 165, 54 Atl. 969; *Brown* v. *Cairns*, 107 Ia. 727, 77 N. W. 478. *Contra*, *Gray* v. *Kaufman Dairy, etc. Co.*, 162 N. Y. 388, 56 N. E. 903. Of course the principal case may be distinguished on the particular terms of the lease. But in so far as the case impliedly stands for the denial generally of any duty to relet, it asserts a principle that may well be challenged.

LANDLORD AND TENANT — CONDITIONS AND COVENANTS IN LEASES — WAIVER OF FORFEITURE — ACCEPTANCE OF RENT UNDER PROTEST. — A landlord gave a weekly tenant notice to quit. The tenant remained in possession and tendered rent accruing after expiration of the notice. The landlord accepted the money but stipulated that it was for "use and occupation" and that the tenancy was not thereby recognized. In a suit by the landlord to recover possession, the tenant set up the defense that the plaintiff by this acceptance had waived the notice to quit. *Held*, that the defense is valid. *Hartell* v. *Blackler*, [1920] 2 K. B. 161.

A landlord brought action against a tenant for years to recover possession, on the tenant's breach of covenant to pay rent. The tenant took advantage of a statute and stopped the proceedings by paying to the landlord the rent in arrear (15 and 16 VICT., c. 76, § 212). The landlord then brought a second action on a cause of forfeiture which had existed before the previous action. The tenant set up the defense that the cause for forfeiture had been waived by the acceptance of rent accruing thereafter in the first suit. *Held*, that the defense is invalid. *Evans* v. *Enever*, [1920] 2 K. B. 315.

For a discussion of these cases, see NOTES, p. 203, *supra*.

LANDLORD AND TENANT — HOLDING OVER — ODD TERM LESS THAN A YEAR RENEWED BY ACCEPTANCE OF RENT FROM TENANT HOLDING OVER. — Premises were let to defendant for a term of seven months for the "seven months' rent" of $420, payable in equal monthly instalments. Defendant held over for some time, the landlord accepting the monthly rent. In an action of ejectment by plaintiff the matter turned on the length of the term